

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re REFCO, INC. SECURITIES LITIGATION

07 MDL No. 1902 (JSR)

GEORGE L. MILLER, Chapter 7 Trustee for the
Estate of Suffolk LLC,

09-cv-2866 (JSR)

Plaintiff,

09-cv-2931 (JSR)

-against-

PF SALECO LLC, ET AL,

NOTICE OF MOTION

Defendants.

ECF FILED

PLEASE TAKE NOTICE, that Defendant Robert Suan (“Mr. Suan”), pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6), will move this Court before the Honorable Jed S. Rakoff at the United States Courthouse, 500 Pearl Street, New York, New York 10007, in Courtroom 14B, on such date as is determined by the Court, for an order dismissing with prejudice the Amended Complaint filed by George L. Miller, Chapter 7 Trustee for the Estate of Suffolk, LLC, against Mr. Suan and for such other relief as the Court deems just and proper. In support of his Motion, Mr. Suan expressly adopts, incorporates and joins in the Motion to Dismiss the Amended Complaint of Credit Suisse First Boston Next Fund, Lab Morgan Corporation and ML IBK Positions, Inc. (collectively, the “Bank Defendants”) filed on April 19, 2010, in consolidated case number 09-cv-2866 (JSR) and in the MDL proceeding bearing Index Number 07 MDL No. 1902 (JSR), the Memorandum of Law in Support of the Bank Defendants’ Motion to Dismiss the Amended Complaint, the Declaration of Ross E. Firsenbaum in Support of the Bank Defendants’ Motion to Dismiss the Amended Complaint, the Reply Memorandum of Law in Support of the Bank Defendants’ Motion to Dismiss the Amended Complaint filed on July 6, 2010, the

Supplemental Declaration of Ross E. Firsenbaum in Support of the Bank Defendants' Motion to Dismiss the Amended Complaint, the Declaration of Joel Millar in Support of the Bank Defendants' Motion to Dismiss the Amended Complaint, and the other supporting papers filed by the Bank Defendants.

Pursuant to the Stipulation and Order approved by Special Master Capra on April 15, 2010 and the Order by Special Master Capra, dated September 22, 2010 by which Mr. Suan was made a party to the April 15, 2010 Stipulation and Order, when and if necessary following the disposition of the Bank Defendants' Motion to Dismiss the Amended Complaint, Mr. Suan reserves his right to assert alternative or procedural grounds for dismissal (i.e. the "Non-Common" defenses), other than those argued by the Bank Defendants.

Mr. Suan respectfully requests that the briefing and oral argument of this motion be coordinated in conjunction with the motion made by the Bank Defendants.

Dated: New York, New York
September 24, 2010

Respectfully submitted,

MARKOWITZ & CHATTORAJ LLP

By: s/ Alon Markowitz
Alon Markowitz, Esq. (AM 0111)

10 E 40th Street
33rd Floor
New York, NY 10016
Tel: (212) 481-1220
Fax: (212) 481-1221
Email: amarkowitz@mclawllp.com
Attorneys for Defendant Robert Suan